

Abstract

Objectionability and relative ineffectiveness

The purpose of my thesis is to analyse the notion of relative ineffectiveness, the institute of private law, which serves as a protection of the creditor against the certain legal acts of his debtor. This institute was known as objectionability before the new civil code came into effect. The aim of this paper is to explain the importance of relative ineffectiveness and to distinguish this institute from the sanctions of the defective legal act.

The first chapter of my thesis deals with the notion of legal act and its elements which are essential for the existence of the valid and effective legal act. The subsequent parts examine the results of the situations in which the requirements to elements of legal act are not fulfilled. The chapter Two deals with the defects of legal act causing its nonexistence. The following chapter Three concerns the sanction of invalidity and the chapter Four explains the notion of ineffectiveness. The explanation of those sanctions is important for its mutual differentiation and for the subsequent analysis of the institute of relative ineffectiveness, because only valid and effective legal act can be pronounced by court as relatively ineffective.

After analysis of different types of sanctions of defective legal act, the chapter Five provides a historical excursion of the institute of relative ineffectiveness, which is followed by explanation of the institute of objectionability, the precursor of relative ineffectiveness, with emphasis to its interpretation in relevant Czech case law in chapter Six. After the summary of the past legislation, the thesis continues with the present legislation dealing with relative ineffectiveness in the chapter Seven.

The main aim of my thesis is to compare the institute of objectionability and its new successor – relative ineffectiveness and to refer to the main changes which the new civil code brought to this field. The result of the research came to outcome, that the position of the creditor, to whom the institute of relative ineffectiveness serves, should be strengthened under the new legislation.